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Notice of Allowability

Application No.

09/976,805

Examiner

Sandra Saucier

Applicant(s)

POLYAK ET AL.

Art Unit

1651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to arguments, amendments, declaration filed 5/13/05.
2. ☒ The allowed claim(s) is/are 10-12 and 20-28.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

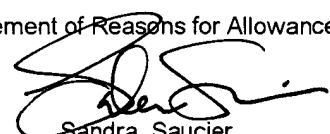
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Sandra Saucier
Primary Examiner
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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with B. Higgins on 7/28/05.

The application has been amended as follows:

IN THE CLAIMS

Claims 1, 6-9, 13-19 have been canceled.

Claim 10, line 2, "250-2,500" has been replaced by ---1,000---.

Claim 10 line 3, "3-8" has been replaced by ---10---.

Claim 10, line 4, "0.5-2" has been replaced by ---0.2---.

Claim 11, line 2, "500" has been replaced by ---1,000---.

Claim 11 line 3, "5" has been replaced by ---10---.

Claim 11, line 4, "1" has been replaced by ---0.2---.

Claim 12, line 1, "1" has been replaced by ---10 or 11---.

Claim 20, line 3, "100-10,000" has been replaced by ---1,000---.

Claim 20 line 4, "1-15" has been replaced by ---10---.

Claim 20, line 4, "0.1-5" has been replaced by ---0.2---.

Claim 21 now reads:

21. A method for preserving a cadaveric organ or biological tissue, wherein the organ or tissue is a kidney or tissue from a kidney, comprising:
pouring the machine perfusion solution of claim 10, 11, 12 or 20 into a chamber that mimics at least one of a deep hypothermic environment and physiological environment;
circulating the machine perfusion solution continuously through the chamber;
inserting the at least one of a cadaveric organ and tissue into the chamber; and
flushing the at least one of a cadaveric organ and tissue with the machine perfusion solution.

Claim 26, line 2, after "solution" has been inserted

---of claim 10, 11, 12 or 20---.

Claim 26, line 4, after "adding" has been inserted ---the---.

Claim 26, line 6, after "mixing" has been inserted ---the---.

REJOINDER OF CLAIMS

Claims 10-12, 20 are directed to an allowable product. Pursuant to the procedures set forth in the Official Gazette notice dated March 26, 1996 (1184 O.G. 86), claims 21-28 are, directed to the process of using and making the patentable product, previously withdrawn from consideration as a result of a restriction requirement, are now subject to being rejoined. Process claims 21-28 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. Claims 13-19, not directed to the process of making or using the patentable product, will not be rejoined.

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REASONS FOR ALLOWANCE

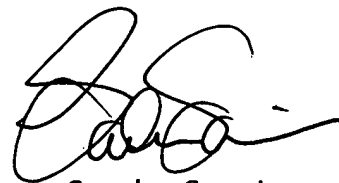
The following is an examiner's statement of reasons for allowance:

Applicants have presented evidence of unexpected results in the reply of 5/13/05 when Belzer solution is supplemented with about 1000 $\mu\text{g/L}$ prostaglandin E1, about 10 mg/L nitroglycerin and about 0.2mg/l N-acetylcysteine and the solution is perfused in a kidney.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Saucier whose telephone number is (571) 272-0922. The examiner can normally be reached on Monday, Tuesday, Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, M. Wityshyn can be reached on (571) 272-0926. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Sandra Saucier
Primary Examiner
AU 1651